

**U.S. Department of Justice**



*United States Attorney  
Southern District of New York*

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*The Silvio J. Mollo Building  
One Saint Andrew's Plaza  
New York, New York 10007*

March 17, 2021

**By ECF**

Honorable Richard M. Berman  
United States District Judge  
Southern District of New York  
500 Pearl Street  
New York, New York 10007

**Re: *United States v. Huggins Orelien, 20 Cr. 636 (RMB)***

Dear Judge Berman:

The Government respectfully writes to request that the Court issue an order permitting the U.S. Marshals Service, the Essex County Department of Corrections, the Bureau of Alcohol, Tobacco, Firearms, and Explosives, and the New York City Police Department<sup>1</sup> to use force, if necessary, to execute a warrant to swab the defendant for DNA.

The defendant is currently detained at Essex County. On February 2, 2021, the Government obtained a warrant to obtain a DNA swab from the defendant in connection with this case. The Government planned to execute the warrant on February 9, 2021, but the defendant refused to come out from his cell for the swab.

A court conference was held on February 17, 2021, at which time the defendant was appointed new counsel. At that conference, the Government informed the Court that the defendant had refused to leave his cell for the DNA swab, and stated that it would consider obtaining a use-of-force order. The Court asked the Government not to obtain any such order until further consulting with defense counsel.

On February 26, 2021, the Government obtained a second warrant to obtain a DNA swab from the defendant, as the first warrant had expired. Defense counsel informed the Government that she had spoken to the defendant and that the defendant would willingly be swabbed in response to a warrant. On March 2, the Government again attempted to execute the DNA warrant, and the defendant again refused to come out from his cell for the swab.<sup>2</sup>

On March 12, 2021, defense counsel again informed the Government that she had spoken to the defendant and that the defendant would willingly be swabbed in response to a warrant. The

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<sup>1</sup> The case agents who will likely execute the warrant work for the Bureau of Alcohol, Tobacco, Firearms, and Explosives, and the New York City Police Department

<sup>2</sup> The Government believes defense counsel's representations were made in good faith and the Government does not ascribe any fault to defense counsel for the defendant's refusal to comply with the search warrant for his DNA.

Government hopes that no force will be required, but, given the defendant's two prior failures to comply with DNA warrants, the Government respectfully request that the Court issue the attached proposed order authorizing the U.S. Marshals Service, the Essex County Department of Corrections, the Bureau of Alcohol, Tobacco, Firearms, and Explosives, and the New York City Police Department to use reasonable force to ensure that a warrant for the defendant's DNA can be executed.

The Government further seeks permission to use force to transport the defendant from Essex County to the Daniel Patrick Moynihan Courthouse to execute the swab, which the Government understands is how DNA swabs of Essex County inmates are typically done. The Government will obtain a third DNA warrant from Magistrate Court before employing the force sought in this order. Finally, the Government understands that if the Court issues the proposed order, the officers will not use force unless necessary.

Respectfully submitted,

AUDREY STRAUSS  
United States Attorney  
Southern District of New York

/s/ Kevin Mead  
Kevin Mead  
Assistant United States Attorney  
(212) 637-2211

cc: Camille Abate, Esq. (by ECF)

We can discuss at our next conference  
on March 24, 2021 at 9:00 AM.

SO ORDERED:  
Date: 3/18/2021

  
Richard M. Berman, U.S.D.J.